

**BEFORE THE  
BOARD OF PSYCHOLOGY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

AUDREY LENORE NEWMAN, PH.D.  
11449 Providencia Street  
Cypress CA 90630

Psychologist's License No. PSY 10985

Respondent.

Case No. W225


OAH No. L2001120495

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Psychology, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 2, 2003.

It is so ORDERED March 3, 2003.

  
\_\_\_\_\_  
FOR THE BOARD OF PSYCHOLOGY  
DEPARTMENT OF CONSUMER AFFAIRS  
PAMELA HARMELL, Ph.D., PRESIDENT

BILL LOCKYER, Attorney General  
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**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**IT IS HEREBY STIPULATED AND AGREED** by and between the parties to  
the above-entitled proceedings that the following matters are true:

**PARTIES**

1. Thomas S. O'Connor (Complainant) is the Executive Officer of the Board  
of Psychology. He brought this action solely in his official capacity and is represented in this  
matter by Bill Lockyer, Attorney General of the State of California, by Richard D. Marino,  
Deputy Attorney General.

2. Respondent Audrey Lenore Newman, Ph.D. (Respondent) is represented  
in this proceeding by attorney Pamela Ann Thatcher, whose address is Law Offices of Pamela  
Ann Thatcher, 98 East Grand Boulevard, Corona, CA 92879.

3. On or about March 3, 1989, the Board of Psychology issued Psychologist's  
License No. PSY 10985 to Respondent. This license was in full force and effect at all times

relevant to the charges brought in Accusation No. W225 and will expire on September 30, 2004, unless renewed.

### **JURISDICTION**

4. Accusation No. W225 was filed before the Board of Psychology (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 30, 2001. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. W225 is attached as Exhibit A and incorporated herein by reference.

### **ADVISEMENT AND WAIVERS**

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. W225. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

### **CULPABILITY**

8. Respondent understands and agrees that the charges and allegations in Accusation No. W225, if proven at a hearing, constitute cause for imposing discipline upon her Psychologist's License. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing,

1 Complainant could establish a factual basis for the charges and allegations in the Accusation, and  
2 that Respondent hereby gives up her right to contest those charges.

3 9. Respondent agrees that her Psychologist's License is subject to discipline  
4 and she agrees to be bound by the Board of Psychology (Board) 's imposition of discipline as set  
5 forth in the Disciplinary Order below.

6 **RESERVATION**

7 10. The admissions made by Respondent herein are only for the purposes of  
8 this proceeding, or any other proceedings in which the Board of Psychology or other professional  
9 licensing agency is involved, and shall not be admissible in any other criminal or civil  
10 proceeding.

11 **CONTINGENCY**

12 11. This stipulation shall be subject to approval by the Board of Psychology.  
13 Respondent understands and agrees that counsel for Complainant and the staff of the Board of  
14 Psychology may communicate directly with the Board regarding this stipulation and settlement,  
15 without notice to or participation by Respondent or her counsel. By signing the stipulation,  
16 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind  
17 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt  
18 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall  
19 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
20 between the parties, and the Board shall not be disqualified from further action by having  
21 considered this matter.

22 12. The parties understand and agree that facsimile copies of this Stipulated  
23 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
24 force and effect as the originals.

25 13. In consideration of the foregoing admissions and stipulations, the parties  
26 agree that the Board may, without further notice or formal proceeding, issue and enter the  
27 following Disciplinary Order:

28 **DISCIPLINARY ORDER**

1                   **IT IS HEREBY ORDERED** that Psychologist's License No. PSY 10985 issued  
2 to Respondent Audrey Lenore Newman, Ph.D. is revoked. However, the revocation is stayed  
3 and Respondent is placed on probation for three (3) years on the following terms and conditions:

4                   1.     PRACTICE MONITOR Within 90 days of the effective date of this  
5 Decision, Respondent shall submit to the Board or its designee for prior approval, the name and  
6 qualifications of a psychologist who has agreed to serve as a practice monitor. The monitor shall  
7 1) be a California-licensed psychologist with a clear and current license; 2) have no prior  
8 business, professional, personal or other relationship with Respondent; and 3) not be the same  
9 person as Respondent's therapist. The monitor's education and experience shall be in the same  
10 field of practice as that of the Respondent.

11                   Once approved, the monitor shall submit to the Board or its designee a plan by  
12 which Respondent's practice shall be monitored during the first year of probation. Monitoring  
13 shall consist of a least one hour per week of individual face to face meetings and shall continue  
14 during the first year of probation. Respondent shall provide the monitor with a copy of this  
15 Decision and access to Respondent's fiscal and/or patient records. Respondent shall obtain any  
16 necessary patient releases to enable the monitor to review records and to make direct contact with  
17 patients. Respondent shall execute a release authorizing the monitor to divulge any information  
18 that the Board may request. It shall be Respondent's responsibility to assure that the monitor  
19 submits written reports to the Board or its designee on a quarterly basis verifying that monitoring  
20 has taken place and providing an evaluation of Respondent's performance.

21                   Respondent shall notify all current and potential patients of any term or condition  
22 of probation which will affect their therapy or the confidentiality of their records (such as this  
23 condition which requires a practice monitor/billing monitor). Such notifications shall be signed  
24 by each patient prior to continuing or commencing treatment.

25                   If the monitor quits or is otherwise no longer available, Respondent shall obtain  
26 approval from the Board for a new monitor within 30 days. If no new monitor is approved within  
27 30 days, Respondent shall not practice until a new monitor has been approved by the Board or its  
28 designee. During this period of non-practice, probation will be tolled and any period of non-

1 practice shall not apply to the reduction of this probationary period. Respondent shall pay all  
2 costs associated with this monitoring requirement. Failure to pay these costs shall be considered  
3 a violation of probation.

4 If at the end of the first year of probation, based upon the practice monitor's  
5 written evaluations of Respondent's performance, Respondent's practice continues to need  
6 monitoring this term and condition of probation shall continue in full force and effect during the  
7 balance of the period of probation or until such time that the practice monitor is of the opinion  
8 that Respondent's practice no longer needs monitoring.

9 2. EDUCATION REVIEW Respondent shall submit to an educational  
10 review concerning the circumstances which resulted in this administrative action. The  
11 educational review shall be conducted by a board-appointed expert case reviewer and/or Board  
12 designee familiar with this case. Educational reviews are informational only and intended to  
13 benefit Respondent's practice by preventing future such complaints. Respondent shall pay all  
14 costs associated with this educational review.

15 3. COURSEWORK Respondent shall take and successfully complete  
16 any and all coursework during each year of probation as recommended by the educational  
17 reviewer but in no case shall Respondent be required to take more than 12 hours of coursework  
18 during any one year of probation. If the educational reviewer determines that Respondent does  
19 not need to take and complete any coursework or additional coursework, Respondent shall be  
20 deemed to have completed this term and condition of probation. The coursework recommended  
21 by the educational reviewer shall be in addition to any continuing education courses that may be  
22 required for license renewal.

23 4. ETHICS COURSE Within 90 days of the effective date of this  
24 Decision, Respondent shall submit to the Board or its designee for prior approval a course in  
25 laws and ethics as they relate to the practice of psychology. Said course must be successfully  
26 completed at an accredited educational institution or through a provider approved by the Board's  
27 accreditation agency for continuing education credit. Said course must be taken and completed  
28 within one year from the effective date of this Decision. The cost associated with the law and

ethics course shall be paid by Respondent.

5. INVESTIGATION/ENFORCEMENT COST RECOVERY Respondent shall pay the Board its costs of investigation and enforcement in the amount of \$3,000 to be paid in five (5) equal installments of \$600.00. The first installment is due within 180 days of the effective date of this Decision. Each subsequent installment is due within 180 days thereafter. The final installment shall be paid no later than the last day of the 30<sup>th</sup> month of probation. Such costs shall be payable to the Board of Psychology. Failure to pay such costs shall be considered a violation of probation.

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs

6. PROBATION COSTS Respondent shall pay the costs associated with probation monitoring each and every year of probation. Such costs shall be payable to the Board of Psychology at the end of each fiscal year (July 1 - June 30). Failure to pay such costs shall be considered a violation of probation.

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs

7. OBEY ALL LAWS Respondent shall obey all federal, state, and local laws and all regulations governing the practice of psychology in California including the ethical guidelines of the American Psychological Association. A full and detailed account of any and all violations of law shall be reported by the Respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence.

8. QUARTERLY REPORTS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board or its designee, stating whether there has been compliance with all the conditions of probation.

9. PROBATION COMPLIANCE Respondent shall comply with the Board's probation program and shall, upon reasonable notice, report to the assigned District Office of the Medical Board of California or other designated probation monitor. Respondent shall contact the assigned probation officer regarding any questions specific to the probation

order. Respondent shall not have any unsolicited or unapproved contact with 1) complainants associated with the case; 2) Board members or members of its staff; or 3) persons serving the Board as expert evaluators.

10. INTERVIEW WITH BOARD OR ITS DESIGNEE Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

11. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing, through the assigned probation officer, of any and all changes of employment, location, and address within 30 days of such change.

12. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-PRACTICE In the event Respondent should leave California to reside or to practice outside the State or for any reason should Respondent stop practicing psychology in California, Respondent shall notify the Board or its designee in writing within ten days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which Respondent is not engaging in any activities defined in Sections 2902 and 2903 of the Business and Professions Code. Periods of temporary or permanent residency or practice outside California or of non-practice within California will not apply to the reduction of this probationary period., although the Board may allow Respondent to complete certain terms of probation that are not associated with active practice.

13. EMPLOYMENT AND SUPERVISION OF TRAINEES If Respondent is licensed as a psychologist, he/she shall not employ or supervise or apply to employ or supervise psychological assistants, interns or trainees during the course of this probation. Any such supervisorial relationship in existence on the effective date of this probation shall be terminated by Respondent and/or the Board.

14. FUTURE REGISTRATION OR LICENSURE If Respondent is currently registered as a psychological assistant and subsequently obtains other psychological assistant registrations or becomes licensed as a psychologist during the course of this probationary order,

Respondent agrees that this Decision shall remain in full force and effect until the probationary period is successfully terminated. Future registration or licensure shall not be approved, however, until Respondent is currently in compliance with all of the terms and conditions of probation.

15. VIOLATION OF PROBATION If Respondent violates probation in any respect, the Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No Petition for Modification or Termination of Probation shall be considered while there is an Accusation or Petition to Revoke Probation pending against Respondent.

16. COMPLETION OF PROBATION Upon successful completion of probation, Respondent's license shall be fully restored.

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
3 have fully discussed it with my attorney, Pamela Ann Thatcher. I understand the stipulation and  
4 the effect it will have on my Psychologist's License. I enter into this Stipulated Settlement and  
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
6 Decision and Order of the Board of Psychology.

7 DATED: 1/10/03

8   
9 AUDREY LENORE NEWMAN, PH.D.  
10 Respondent

11  
12 I have read and fully discussed with Respondent Audrey Lenore Newman, Ph.D.  
13 the terms and conditions and other matters contained in the above Stipulated Settlement and  
14 Disciplinary Order. I approve its form and content.

15 DATED: 1/13/03

16  
17   
18 PAMELA ANN THATCHER  
19 Attorney for Respondent  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Psychology of the Department of Consumer Affairs.

DATED: January 21, 2003

BILL LOCKYER, Attorney General  
of the State of California



RICHARD D. MARINO  
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 03598160-LA01 2043

**Exhibit A**

**Accusation No. 1F-2001-117356**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE, State Bar No. 141267  
Deputy Attorney General  
3 California Department of Justice  
300 South Spring Street, Suite 1702  
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6 Attorneys for Complainant

FILED  
STATE OF CALIFORNIA  
BOARD OF PSYCHOLOGY  
SACRAMENTO November 30 2001  
BY M. J. Gackmann ANALYST

8 **BEFORE THE**  
9 **BOARD OF PSYCHOLOGY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. W225

12 AUDREY LENORE NEWMAN, PH.D.  
11449 Providencia Street  
13 Cypress, California 90630

**A C C U S A T I O N**

14 Psychologist License No. PSY-10985,

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Thomas S. O'Connor ("Complainant") brings this Accusation solely in his official  
20 capacity as the Executive Officer of the Board of Psychology, Department of Consumer Affairs.

21 2. On or about March 3, 1989, the Board of Psychology issued Psychologist License  
22 Number PSY 10985 to Audrey Lenore Newman, Ph.D. ("Respondent"). The Psychologist  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on September 30, 2002, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Psychology ("Board"), under the  
27 authority of the following sections of the Business and Professions Code ("Code").

28 4. Section 2960 of the Code states:

The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

“ . . .

"(j) Being grossly negligent in the practice of his or her profession.

"(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

• • •

"(p) Functioning outside of his or her particular field or fields of competence as established by his or her education, training, and experience.

"(r) Repeated acts of negligence."

5. Section 2964.6 of the Code states:

An administrative disciplinary decision that imposes terms of probation may include, among other things, a requirement that the licensee who is being placed on probation pay the monetary costs associated with monitoring the probation.

6. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## INTRODUCTION

This case was initiated upon receipt of an 805 which notified the Board that Audrey Newman, Ph.D. had been removed from the authorized list of psychological testers for the Los Angeles County Department of Mental Health (LAC/DMH). This action was taken because the LAC/DMH Credentialing Review Committee determined Respondent's psychological testing fell below the minimum acceptable community standard.

1 FIRST CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts)

3 7. Respondent is subject to disciplinary action under section 2960, subdivision (r) in  
4 that Respondent committed repeated acts of negligence with patients M.P., Ja. H., Je. H., Y.T.,  
5 S.M., E.M., E.B., J.S., A.H., B.H., A.A., C.M., L.R., J.C., O.H., S.H.,<sup>1</sup> A.D., R.R., H.J., S.H.,<sup>2</sup>  
6 and C.L.<sup>3</sup> The circumstances are as follows:

7 A. Patient M.P.

8 a. On or about September 4, 1998, three-year-old M.P. was referred to  
9 Respondent by her social worker to assess her present level of functional intelligence, her basic  
10 personality dynamics and her general performance level in order to aid in treatment and  
11 placement planning.

12 b. Respondent administered the WPPSI-R, the Rorschach, Burks' Behavior  
13 Rating Scales, and the Connor's parent Questionnaire, to M.P..

14 c. Respondent's report on these tests provided Verbal, Performance and Full-  
15 Scale scores for the WPPSI-R. Respondent also discussed the WPPSI-R subtest scores, offering  
16 hypotheses for what each meant, but not discussing their relationship to each other or relating  
17 them to the child's functioning. Respondent listed areas of concern suggested by the Burks'  
18 scales and problematic behaviors reported on the Connor's Parent Questionnaire, but did not  
19 discuss them. Although Respondent stated that she administered the Rorschach, Respondent did  
20 not refer to the test.

21 d. Respondent's diagnostic impression of M.P. was:

22 Axis I: Generalized Anxiety

23 Axis II: Dependent Personality Traits.

24  
25 1. Female

26 2. Male

27 3. The full name of each patient is available to respondent upon a timely request for  
28 discovery under Government Code section 11507.6.

1 e. Respondent's summary and recommendations were that M.P. was found  
2 to be of average intelligence with evidence of neurological impairment, but no evidence of a  
3 thought disorder. A number of recommendations were offered by Respondent which addressed  
4 emotional, behavioral, and interpersonal problems.

5 f. The following acts of Respondent constitute departures from the standard  
6 of care:

7 1. Giving achievement tests, which were inappropriate for a child of  
8 three years eight months; and

9 2. Diagnosing neurological impairment without any supporting  
10 documentation.

11 **B. Patient Ja. H.**

12 a. On or about July 17, 1999, four-year-old Ja. H. a client of the L.A. County  
13 Department of Children and Family Services, was evaluated by Respondent.

14 b. Respondent used the Bayley Scales of Infant Development and the  
15 Toddler Temperament Questionnaire, as well as clinical observations and a structured caretaker  
16 interview.

17 c. Respondent reported that Ja. H's Mental Scale Development Index Score  
18 (143) placed him within the very low average range for children his age, and that his Motor  
19 Scale Development Index Score placed him in the low average range for same aged peers.  
20 Respondent also reported on each of the attributes of temperament covered by the Toddler  
21 Temperament Questionnaire. Respondent did not discuss the interaction of temperament and  
22 development.

23 d. Respondent's Diagnostic Impression of Ja. H. was:

24 Axis I: Oppositional Defiant Disorder Expressive Language Disorder,

25 Axis II: Mild Mental Retardation

26 e. Respondent's Summary and Recommendations were that Ja. H. was  
27 functioning in the low average range of cognitive development and the low average range in  
28 motor skill acquisition and that his behavioral and adaptive functioning were in the low average

1 range. Respondent provided a number of recommendations including a thorough  
2 neuropsychological battery and counseling to help him "stabilize his anxiety and depression,"  
3 "manage his emotions," and examine "the underlying sources of his oppositionalism and  
4 resistance to authority."

5 f. The following acts of Respondent constitute departures from the standard  
6 of care:

- 7 1. Respondent administered the Bayley Scales to assess this 44 month old  
8 child, when the Bayley norms stop at 36 months;
- 9 2. Respondent scored and interpreted the Bayley Scales inaccurately.
- 10 3. Respondent diagnosed mental retardation without assessment of  
11 Ja. H.'s adaptive functioning; and
- 12 4. Respondent recommended inappropriate treatment options for a young  
13 child with limited intellect.

#### 14 C. Patient Je. H.

15 a. On or about July 17, 1999, two-year-old Je. H. was referred to Respondent  
16 for evaluation by his social worker and his grandmother for developmental delays and behavioral  
17 disturbances.

18 b. Respondent used the Bayley Scales of Infant Development and the  
19 Toddler Temperament Questionnaire, as well as clinical observations and a structured caretaker  
20 interview, to evaluate Je.H.

21 c. Respondent reported that Je. H's Mental Scale Development Index Score  
22 (120) placed him within the low average range for children his age and that his Motor Scale  
23 Development Index Score (69) placed him in the low average range for same aged peers.  
24 Respondent described three areas (intensity of response, persistence, and level of threshold) in  
25 which Je. H's temperament differed from the norm.

26 d. Respondent's Diagnostic Impression was:

27 Axis I: Oppositional Defiant Disorder, Neglect of Child

28 e. Respondents's Summary and Recommendation was to make referrals to other

1 agencies.

2 f. The following acts of Respondent constitute departures from the standard  
3 of care:

- 4 1. Respondent improperly scored and interpreted the Bayley Scales.  
5 2. Respondent used an out dated, 1969 edition of the Bayley Scales.  
6 3. Respondent offered a diagnosis unsupported by documented,  
7 behaviorally based, norm referenced criteria.

8 **D. Patient Y.T.**

9 a. On or about August 31, 1999, eight-year-old Y.T. was referred to  
10 Respondent for a comprehensive psycho diagnostic assessment by her social worker. The referral  
11 was made to "determine Y.T.'s current level of functional intelligence, basic personality dynamics,  
12 and general performance level to aid in treatment and placement planning."

13 b. Tests used by Respondent included the WISC-III, the Rorschach, the Bender  
14 Visual-Motor Gestalt Test, the Sentence Completion Test, the Draw a Person Test, as well as a  
15 clinical interview.

16 c. Respondent provided WISC-III I. Q. scores, as well as scores on all of the  
17 WISC-III subtests, along with hypotheses about what each subtest measured. Respondent did not  
18 compute index scores or discuss which of the hypotheses were more likely to apply to this specific  
19 child. Based on the Bender, Respondent suggested that Y.T. had "learning disabilities and possible  
20 organic conditions." Respondent also offered several hypotheses about emotional functioning based  
21 on the Bender, but did not integrate these with the findings of other-tests of emotional functioning.  
22 Respondent did not administer any tests of attention, concentration, or impulse control, although Y.T.  
23 was previously diagnosed with Attention Deficit Hyperactivity Disorder (ADHD).

24 d. Respondent's diagnostic impression was:

25 Axis I: Attention Deficit Hyperactivity Disorder,

26 Axis II: No diagnosis.

27 e. Respondent's Summary and Recommendations were that Y.T. had low  
28 average intelligence and that "she evidenced signs of neurological impairment as well as learning

1 disabilities, but there was no sign of a thought disorder." Respondent's recommendations included  
2 referral for a thorough neuropsychological battery. Respondent made eight suggestions for dealing  
3 with emotional management and behavioral control. With the exception of the name and gender of  
4 the child, these suggestions are exact duplicates of suggestions offered for Ja. H. (see above).

5 f. The following acts of Respondent constitute departures from the standard  
6 of care.

7 1. Respondent diagnosed ADHD without using any measures to assess for  
8 this condition;

9 2. Respondent diagnosed learning disabilities without administering tests  
10 of academic achievement; and

11 3. Respondent recommended generic treatment options and did not take  
12 into account the characteristics of the individual child.

13 **E. Patient J.S.**

14 a. On or about October 8, 1999, two-year-old J.S. was referred by her social  
15 worker for a comprehensive psychodiagnostic assessment to determine her current level of  
16 functional intelligence, personality dynamics, and her level of cognitive functioning. During  
17 testing, Respondent reported that J.S. barely spoke audible sounds.

18 b. Respondent administered the Bayley Scales of Infant Development and  
19 the Toddler Temperament Questionnaire, as well as a structured clinical interview and clinical  
20 observations.

21 c. Respondent presented scores on the Bayley Scales that were inconsistent  
22 in that the raw scores, age scores, and standard scores did not match. Respondent reported that  
23 interpretation of the Temperament Scales was tentative because J.S.'s aunt did not complete it  
24 fully.

25 d. Respondent's Diagnostic Impression was:

26 Axis I: Pervasive Developmental, Disorder NOS,

27 Axis II: No diagnosis.

28 e. Respondent summarized J.S. as being in the very low range of cognitive

1 development and below average in motor development for children her age. Respondent  
2 recommended a speech and language evaluation and made suggestions for her caretakers to  
3 facilitate her language and motor development. Respondent did not suggest assessment of her  
4 hearing or her intellectual/adaptive functioning.

5 f. The following acts of Respondent constitute departures from the standard  
6 of care:

- 7 1. Respondent incorrectly scored and interpreted the Bayley Scales;
- 8 2. Respondent did not address the referral question for which testing was  
9 authorized; and
- 10 3. Respondent did not assess possible reasons for J.S.'s minimal speech,  
11 such as hearing deficits, language disability and articulation problems.

12 **F. Patient O.H.**

13 a. On or about December 1, 1999, eleven-year-old O.H. was referred to  
14 Respondent by his social worker to ascertain O.H.'s current level of functional intelligence,  
15 whether or not he had a mental disorder, and basic personality dynamics.

16 b. Respondent administered the WISC-III, the Rorschach, the Bender Visual-  
17 Motor Gestalt Test, the Sentence Completion Test, the Draw a Person Test, as well as a  
18 psychological interview to evaluate O.H..

19 c. Respondent found O.H. to be functioning in the Borderline range of  
20 intelligence with a significantly higher Performance than Verbal Score. Respondent cited a  
21 number of conditions associated with this pattern, including left hemisphere brain damage,  
22 learning disabilities, juvenile delinquency, educational deprivation, and cultural factors.  
23 Respondent did not suggest which was more likely for O.H. Respondent reported all subtest  
24 scores and described attributes measured by each one. Respondent stated that his Bender  
25 protocol "attests to him having learning disabilities and possible organic conditions." No tests of  
26 academic achievement were administered. In the Social-Emotional Aspects section, Respondent  
27 noted that there was no evidence of bizarre content or psychotic types of thought disturbance,  
28 but that he did feel insecure, anxious, and depressed. Respondent offered a fairly detailed

1 account of his social and emotional functioning .

2 d. Respondent's Diagnostic Impression was:

3 Axis I: Dysthymic Disorder

4 Axis:II: Borderline Intellectual Functioning.

5 e. Respondent summarized that O.H. was currently functioning in the  
6 borderline range of intelligence with signs of neurological impairment, but no signs of a thought  
7 disorder. Respondent's recommendations ranged from neuropsychological testing to counseling.

8 f. The following are acts of Respondent which constitute departures from the  
9 standard of care:

10 1. Respondent misinterpreted the results of the WISC-III and  
11 misdiagnosed borderline intellectual functioning; and

12 2. Respondent diagnosed learning disabilities without administering tests  
13 of academic achievement.

14 **G. Patient A.A.**

15 a. On or about November 8, 1999, seven-year-old A.A. was referred to  
16 Respondent by her social worker to "determine A.A.'s current level of functional intelligence,  
17 basic personality dynamics, and to determine whether A.A. was suitable for adoption."

18 b. Respondent administered the WISC-III, the Rorschach, the Bender Visual-  
19 Motor Gestalt Test, the Sentence Completion Test, the Draw-a-Person Test, and conducted a  
20 psychological interview, to evaluate A.A..

21 c. Respondent reported that A.A. was of average to high average intelligence  
22 with a significant difference between her Verbal and Performance scores (although more than  
23 one third of the children in the normative group had discrepancies of this magnitude).  
24 Respondent reported each subtest score and discussed strengths and weaknesses. Respondent  
25 also reported that the Bender protocol attests to A.A. having "learning disabilities and possible  
26 organic conditions," Respondent reported a number of findings with respect to social and  
27 emotional functioning but stated there was no evidence of "bizarre types of content or psychotic  
28 types of thought disturbance." Respondent stated that, although for the most part A.A.

1 showed healthy consistent adjusting in general under stress, she may exhibit behavioral  
2 constriction.

3 d. Respondent's Diagnostic Impression was:

4 Axis I: Generalized Anxiety

5 Axis II: No diagnosis.

6 e. In her summary Respondent described A.A. as a child of average  
7 intelligence who showed signs of neurological impairment, but no thought disorder.

8 f. The following acts of Respondent represent departures from the standard  
9 of care:

10 1. Respondent diagnosed learning disabilities without administering tests  
11 of academic achievement;

12 2. Respondent diagnosed neurological impairment with insufficient  
13 evidence;

14 3. The diagnosis of Generalized Anxiety Disorder was not supported by  
15 data indicating significant distress or impaired functioning; and

16 4. Respondent's recommendations were generic, and not specific to A.A..

17 **H. Patient H.S.J.**

18 a. On or about November 8, 1999, eight-year-old H.S.J, was referred to  
19 Respondent by her social worker to "determine H.S.J.'s social, emotional, cognitive, and  
20 developmental level and to give recommendations for treatment."

21 b. Respondent administered the WISC-III the Rorschach, the Bender Visual-  
22 Motor Gestalt Test the Sentence Completion Test, the Draw a Person Test, as well as a  
23 psychological interview. No tests of academic achievement were administered.

24 c. Respondent reported that H.S.J. was a child with average intellectual  
25 ability and no significant difference between her Verbal and Performance Scores. Respondent  
26 reported all subtest scores and discussed their meaning. Respondent noted that the Bender  
27 protocol attested to H.S.J.'s "having learning disabilities and possible organic conditions."  
28 Respondent offered hypotheses about emotional functioning based on the Bender, but did not

1 relate these hypotheses to other tests of social and emotional functioning. In the Social  
2 Emotional Aspects section, Respondent reported that H.S.J. was not psychotic and had no major  
3 mood disturbance, but that she was an anxiously dependent young girl who was also very  
4 fearful. Although Respondent did not cite specifics, it appeared that her conclusions were drawn  
5 from the Rorschach and the drawings. Respondent also reported all of H.S.J.'s responses to the  
6 Sentence Completion Test and her "three wishes."

7 d. Respondent's Diagnostic Impression was:

8 Axis I: Generalized Anxiety

9 Axis II: No Diagnosis

10 e. In her summary, Respondent reported that H.S.J. is an eight year-old  
11 African American female who appears to be functioning in the average range of intelligence and  
12 who evidenced signs of neurological impairment, but no signs of a thought disorder. Respondent  
13 did not discuss affective functioning in the summary, but her recommendations addressed  
14 H.S.J.'s social and emotional functioning.

15 f. The following acts of Respondent represent departures from the standard  
16 of care:

17 1. Respondent diagnosed learning disabilities based solely on the Bender  
18 with no tests of academic achievement; and

19 2. Respondent failed to make patient-specific recommendations.

20 **I. Patient A.D.**

21 a. On or about November 18, 1999, six-year-old A.D. was referred to  
22 Respondent by his social worker to "ascertain A.D.'s current level of functional intelligence,  
23 basic personality dynamics, and the extent of his emotional and behavioral problems."

24 b. Respondent administered the WISC-III, the Rorschach, the Bender Visual-  
25 Motor Gestalt Test, the Sentence Completion Test, the Draw a Person Test, as well as a  
26 psychological interview. No academic testing was performed.

27 c. Respondent reported that A.D. had average intelligence with no  
28 significant Verbal Performance Discrepancy. Respondent presented all subtest scores and offers

1 hypotheses as to what they may mean. Respondent stated, that his above average Information  
2 score may indicate "intellectualizing tendencies and possible obsessive compulsive tendencies."  
3 His lower block Design score is said to suggest the presence of an organic condition, especially  
4 if right hemisphere or night parietal area is involved, the likelihood of anxiety, stress, or tension,  
5 and. tendencies toward depression. Respondent stated that A.D.'s Bender protocol attests to him  
6 having learning disabilities and possible organic conditions. In the Social-Emotional Aspects  
7 section, Respondent reported that A.D. was feeling insecure, anxious, and depressed.  
8 Respondent described his motivations, emotions, and likely behavior without citing test findings,  
9 except to say that his "Sentence Completion responses were wholly appropriate for his age."

10 d. Respondent's Diagnostic Impressions was:

11 Axis I: Generalized Anxiety

12 Axis II: No diagnosis

13 e. In her summary, Respondent described A.D. as a boy with average  
14 intelligence who evidenced signs of neurological impairment, but no signs of a thought disorder,  
15 Respondent made no mention of his emotional adjustment. Respondent offered 10  
16 recommendations which addressed neurological, emotional, and behavioral issues.

17 f. The following are acts of Respondent which constitute departures from the  
18 standard of care:

19 1. Respondent diagnosed learning disabilities without administering tests  
20 of academic achievement;

21 2. Respondent listed a variety of test hypothesis, but did not integrate  
22 them or evaluate their likelihood for this child; and

23 3. The diagnosis of Generalized Anxiety Disorder was made without any  
24 data supporting the presence of clinically significant distress or functional impairment.

25 **J. Patient C.M.**

26 a. On or about November 18, 1999, eight-year-old C.M. was referred to  
27 Respondent by her social worker to determine C.M.'s current level of functional intelligence and  
28 whether or not she had severe emotional and behavioral problems.

1           b.       Respondent administered the WISC-III, the Rorschach, the Bender Visual-  
2 Motor Gestalt Test, the Sentence Completion Test, and the Draw a Person Test, as well as  
3 conducting a psychological interview to evaluate C.M..

4           c.       Respondent reported that C.M. was of low average intelligence with a  
5 significant difference between her Verbal and Performance Scores. Respondent reported each  
6 subtest score and described abilities assessed by each test. Respondent reported that C.M.'s  
7 Bender protocol "attests to her having learning disabilities and possible organic conditions." No  
8 academic achievement testing was performed, Respondent reported that the results of social and  
9 emotional testing suggested moderate depression, but no thought disorder.

10          d.       Respondent's Diagnostic Impression was:

11                   Axis I: Dysthymic Disorder

12                   Axis II: No diagnosis.

13          e.       Respondent summarized that C.D. was functioning in the low average  
14 range of intelligence with evidence of neurological impairment, but no evidence of any thought  
15 disorder. Respondent offered a variety of recommendations, and in several, the male pronoun is  
16 used to refer to this female child.

17          f.       The following acts of Respondent represent departures from the standard  
18 of care:

19                   1. Respondent diagnosed learning disabilities without administering tests  
20 of academic achievement;

21                   2. Respondent diagnosed neurological impairment with insufficient  
22 evidence; and

23                   3. Respondent's recommendations were generic and not specific to C.D..  
24 In fact, the masculine pronoun was used to refer to C.D..

25                                   **K. Patient J.C.**

26           On or about November 18, 1999, eleven-year-old J.C. was referred by his social worker  
27 to ascertain J.C.'s current level of functional intelligence, the extent of his emotional and  
28 behavioral problems, and the extent of his depression.

b. Respondent administered the WISC-III, the Rorschach, the Bender Visual-Motor Gestalt Test, the Sentence Completion Test, and the Draw a Person Test, as well as a psychological interview to evaluate J.C..

c. Respondent reported that J.C. was functioning in the low average range of intelligence with no significant Verbal/Performance difference, but with some interest scatter on both scales. Respondent reported each subtest score, and a variety of hypotheses associated with these scores, but did not discuss which was more likely for J.C.. Respondent reported that his Bender protocol "attests to his having learning disabilities and possible organic conditions." No academic testing was performed. In the Social Emotional Aspects section Respondent reported no evidence of bizarre content or thought disorder, but found that J.C. was feeling insecure, anxious, and depressed. Respondent made a number of specific statements about his social and emotional functioning.

d. Respondent's Diagnostic Impression was:

Axis I: Dysthymic Disorder

Axis II: No diagnosis.

e. In her summary, Respondent stated that J.C. was a boy who appeared to be functioning in the low average range of intelligence and who evidenced signs of neurological impairment but no evidence of a thought disorder. Depression was not discussed in the summary, but several recommendations addressed his emotional distress.

f. The following acts of Respondent constitute departures from the standard of care:

1. Respondent misinterpreted the WISC-III results, suggesting lower intellect than is the case;

2. Respondent diagnosed learning disabilities without administering tests of academic achievement; and

3. Respondent's diagnosis of Dysthymia was inconsistent without any discussion of affective functioning in the summary.

**L. Patient L.R.**

a. On or about November 19, 2000, fourteen-year-old L.R. was referred to Respondent by his social worker to ascertain L.R.'s current level of functional intelligence, the extent of his emotional problems, and specifically depression, as well as the effects of physical abuse by his parents upon him.

b. Respondent administered the WISC-III, the Rorschach, the Bender Visual-Motor Gestalt Test, the Sentence Completion Test, the Draw a Person Test, as well as conducting a psychological interview to evaluate L.R..

c. Respondent stated that L.R.'s overall intellectual functioning was in the average range, with a significant (10 point difference) between the Verbal and Performance Scores. Respondent stated that L.R.'s pattern of scores is consistent with "left hemisphere brain damage, learning disabilities, juvenile delinquency and educational deprivation" but did not specify which of these possibilities was most likely for L.R., or discuss cultural and language issues. No academic testing was performed. Respondent reported all subtest scores and the attributes and deficits associated with these scores. Respondent reported that the Bender suggested adequate motor skills but moderately severe psychological problems. Respondent offered a number of hypotheses about social and emotional functioning in her discussion of the Bender, but did not integrate them with other tests of emotional functioning. In the social and emotional section of the report, Respondent noted that projective tests supported the diagnosis of depression and offered a variety of hypotheses about his social and emotional functioning.

d. Respondent's Diagnostic Impression was:

Axis I: Dysthymic Disorder,

Axis II: No diagnosis.

e. In her summary Respondent reported that L.R. was a fourteen year-old boy with average intelligence, no signs of neurological impairment, and no signs of thought disorder. Respondent did not address the issue of depression in the summary.

f. The following are acts of Respondent which constitute departures from the standard of care:

1 1. Respondent over-interpreted pathology with insufficient evidence from  
2 the WISC-III; and

3 2. Respondent failed to make patient-specific recommendations.

4 **M. Patient R.R.**

5 a. On or about November 19, 1999, fifteen-year-old R.R. was referred by his  
6 social worker to "ascertain R.R.'s current level of functional intelligence, the extent of his  
7 emotional and behavioral problems, and the severity of his depression."

8 b. Respondent administered the WISC-III, the Rorschach, the Bender Visual-  
9 Motor Gestalt Test, the Sentence Completion Test, the Draw a Person Test, in addition to a  
10 clinical interview. No tests of academic achievement were administered.

11 c. Respondent found R.R. to have average intelligence with no significant  
12 difference between his Verbal and Performance Scores. Respondent stated that the Bender  
13 protocol did not indicate neurological impairment, but qualities of his drawing that could be  
14 associated with an organic brain dysfunction. Respondent offered several hypotheses about  
15 emotional functioning based on the Bender, but did not integrate these with the results of other  
16 tests of emotional functioning. In the Social-Emotional Aspects section, Respondent described  
17 him as a "youth who was generally feeling anxious and depressed." Respondent made a number  
18 of comments about his internal state and likely behavior based on projective testing.

19 d. Respondent's Diagnostic Impression was:

20 Axis 1: Dysthymic Disorder

21 Axis II: No Diagnosis

22 e. In her summary, Respondent stated that R.R. was a fifteen year-old  
23 Hispanic male who displayed no evidence of either neurological impairment or a thought  
24 disorder. Respondent did not address affective functioning in the summary, though she offered a  
25 diagnosis of dysthymic disorder.

26 f. The following acts of Respondent constitute departures from the standard  
27 of care:  
28

1 1. Respondent offered a variety of hypotheses about social and emotional  
2 functioning based on the Bender, but did not integrate the results with other tests; and

3 2. Respondent's diagnosis of Dysthymic Disorder was not consistent with  
4 a lack of discussion of affective functioning in the summary.

5 **N. Patient S.M.**

6 a. On or about November 30, 1999, sixteen-year-old S.M. was referred to  
7 respondent for evaluation to "ascertain S.M.'s current level of functional intelligence, basic  
8 personality dynamics, and to determine whether or not he had a severe mental disorder".

9 b. Respondent used the WISC-III, the Rorschach, the Bender Visual-Motor  
10 Gestalt Test the Sentence Completion Test, the Draw-A-Person Test, and conducted a psychological  
11 interview to evaluate S.M.

12 c. Respondent provided WISC-III I. Q scores and scores for all of the WISC-  
13 III subtests, along with general hypotheses about what these scores might indicate. In discussion  
14 of S.M.'s Picture Arrangement score, Respondent stated that "Low Picture Arrangement scores  
15 suggest the likelihood of impaired ability in getting along with others, relatively poor planning or  
16 impulsivity in interpersonal relationships, depressive conditions, and possible organicity,  
17 particularly right hemisphere or diffuse dysfunctioning." Respondent did not state which of  
18 these hypotheses was more likely to apply to S.M. and did not address the issue of possible  
19 cultural bias in this test. In discussing the Bender Visual-Motor Gestalt, Respondent noted that  
20 examination of the results "attests to him having learning disabilities and possible organic  
21 conditions." Respondent also offered a number of hypotheses relating to emotional functioning,  
22 which Respondent stated must be validated before they are accepted. There is no integration of  
23 the Bender results with other tests of emotional functioning.

24 d. Respondent's Diagnostic Impression was:

25 Axis I: Conduct Disorder

26 Axis II: Mild Mental Retardation.

27 e. Respondent's Summary and Recommendations were that S.M. was a  
28 sixteen-year-old, African American male who appeared to be functioning in the mentally

1 deficient range of intelligence. He evidenced signs of neurological impairment, but there were  
2 no signs of a thought disorder. Respondent suggested that he receive a neuropsychological test  
3 battery and follow up psychological testing within a year. Respondent also suggested academic  
4 remediation (though no testing was done to identify areas of underachievement).

5 f. The following acts of Respondent constitute departures from the standard  
6 of care:

7 1. Respondent diagnosed mental retardation without using measures of  
8 adaptive functioning; and

9 2. Respondent diagnosed that S.M. had learning disabilities without  
10 administering tests of academic achievement to him.

#### 11 O. Patient S.H.

12 a. On or about December 1999, seven-year-old S.H. was referred to  
13 Respondent by her social worker "to ascertain S.H.'s current level of functional intelligence,  
14 whether or not she had developmental delays, and what effect her parent's illegal activities have  
15 had on her."

16 b. Respondent administered the WISC-III, the Rorschach, the Bender  
17 Visual-Motor Gestalt Test, the Sentence Completion Test, the Draw a Person Test, as well as a  
18 psychological interview. No tests of academic achievement or adaptive functioning were used.

19 c. Respondent reported that S.H. had an average Performance Score (103), a  
20 low average Verbal Score (83) and an average Full-Scale Score (102), which appeared to be an  
21 error. Respondent noted that such a pattern is often associated with left hemisphere brain  
22 damage, learning disabilities, juvenile delinquency, and educational deprivation and also  
23 reported that it may reflect cultural bias in the test, but did not discuss the relative likelihood of  
24 these possibilities for this child. Respondent fully reported subtest scores and offered  
25 explanations of what each test meant. Respondent noted that S.H.'s low vocabulary score may  
26 suggest an impoverished, early environment as well as "possible organic conditions, sometimes  
27 with local lesions in the dominant hemisphere or in the subordinate temporal lobe." Respondent  
28 reported that S.H.'s Bender protocol "attests to her having learning disabilities and possible

1 organic conditions." In the Social Emotional Aspects section, Respondent noted that S.H.'s tests  
2 showed no indication of any psychotic thought disorder, major mood disturbance or, suicidal  
3 ideation or intent, and presented a picture of a young girl who seems to have adjusted relatively  
4 well given the trauma of her background, though she expressed feelings of insecurity and  
5 inadequacy.

6 d. Respondent's Diagnostic Impression:

7 Axis I: Generalized Anxiety

8 Axis II: No diagnosis

9 e. In her summary Respondent reported that S.H. is an eight-year-old  
10 Hispanic female (although in the referral section she is said to be seven years-one-month, which  
11 is consistent with her birth date). Her intelligence is said to be in the borderline range. She is  
12 reported to display evidence of neurological impairment but not of a thought disorder. The issue  
13 of developmental delays is not addressed.

14 f. The following acts of Respondent constitute departures from the standard  
15 of care:

16 1. Respondent's scoring and interpretation of the WISC-III was  
17 erroneous;

18 2. Respondent listed a variety of test hypothesis, but failed to integrate  
19 them or evaluate their likelihood for S.H.; and

20 3. Respondent diagnosed generalized Anxiety Disorder without data that  
21 support clinically significant distress or functional impairment.

22 **P. Patient B.H.**

23 a. On or about December 1, 1999, four-year-old B.H. was referred to  
24 Respondent by his social worker to ascertain his current level of functional intelligence, basic  
25 personality dynamics, and to determine what effect his parent's illegal activities have had upon  
26 him.

b. Respondent administered the NXTPSI-R, the Draw a Person Test, the Burks Behavior Rating Scales, the Connor's Parent Questionnaire, as well as a psychological interview, to evaluate B.H..

c. Respondent reported B.H.'s scores on all WPPSI-R subtests, as well as Verbal, Performance, and Full Scale I.Q. Scores. Because of an addition error, however, the Performance Score and the Full Scale Score were in error. Respondent noted that the verbal/performance discrepancy suggested "organic and aphasic conditions, particularly with right hemisphere dysfunctioning," yet reported, that his linguistic abilities were consistent with the average four-year-old. In the Social-Emotional Aspects section Respondent listed items endorsed in the Connors Scale.

d. Respondent's Diagnostic Impression was:

Axis I: Generalized Anxiety,

Axis II: No diagnosis.

e. In her summary, Respondent stated that B.H. was of low average intelligence and displayed signs of neurological impairment, but no thought disorder.

f. The following acts of Respondent constitute departures from the standard of care:

1. Respondent scored and interpreted the WISC-III incorrectly; and
2. Respondent diagnosed Generalized /Anxiety Disorder without data supporting distress or impairment in functioning.

#### **Q. Patient A.H.**

a. On or about December 2, 1999, thirteen-year-old A.H. was referred to Respondent for psycho diagnostic assessment by her social worker to ascertain her current level of functional intelligence, the extent of her depression, and to determine whether or not she had a significant mental disorder.

b. Respondent administered the WISC-III, the Rorschach, The Bender Visual-Motor Gestalt Test, the draw a person test, as well as a psychological interview.

1 c. Respondent reported that A.H. was functioning in the mentally deficient  
2 range of intelligence and noted that there was a significant difference between the verbal and  
3 performance scores. Respondent offered several possible explanations, but did not hypothesize  
4 which was more likely for this child. Similarly, Respondent reported scores for subtests and  
5 described the general significance of such scores. Respondent reported that A.H.'s performance  
6 on the Bender suggested both organic conditions and moderately severe psychological problems.  
7 Respondent did not integrate the Bender findings with other tests of social and emotional  
8 functioning. In the Social-Emotional Aspects section, Respondent reported evidence of "some  
9 psychotic conditions, including major depression" and reported that "her depression could be  
10 considered to be within the moderate to severe range."

11 d. Respondent's Diagnostic Impression was:

12 Axis I: Dysthymic Disorder

13 Axis II: Mild Mental Retardation

14 e. Respondent summarized that A.H. was functioning in the mentally  
15 deficient range of intelligence and showed signs of neurological impairment, but no sign of  
16 thought disorder. Respondent offered a variety of recommendations, some of which used the  
17 masculine pronoun to refer to this female child.

18 f. The following acts of Respondent constitute departures from the standard  
19 of care:

20 1. Respondent diagnosed mental retardation without sufficiently  
21 accounting for cultural factors and without administering tests of adaptive functioning;

22 2. Respondent diagnosed A.H. as Dysthymic which was not consistent  
23 with test results that indicated "some psychotic condition including major depression;" and

24 3. Respondent's recommendations were not specific to A.H.. In fact, the  
25 masculine pronoun was used by Respondent in several cases.

26 **R. Patient S.H.**

27 a. On or about December 2, 1999, eight-year-old S.H. was referred to  
28 respondent for evaluation by his social worker to ascertain S.H.'s current level of functional

1 intelligence, basic personality dynamics, and to determine whether or not he had a mental  
2 disorder.

3           b.       Respondent administered the WISP-111, the Rorschach, the Bender  
4 Visual-Motor Gestalt Test the Sentence Completion Test, the Draw a Person Test, as well as a  
5 psychological interview. No tests of academic achievement were administered.

6           c.       Respondent reported that S.H. was functioning in the borderline range of  
7 intelligence, with no significant Verbal/Performance discrepancy. Respondent discussed each of  
8 the subtests, and described what they measured. Respondent did not discuss the likely validity  
9 of each of these scores for S.H., but did note that there could be cultural bias in the test results.  
10 Respondent reported that the Bender protocol "attests to him having learning disabilities and  
11 possible organic conditions." In the Social-Emotional Aspects section, Respondent noted that  
12 S.H. was not psychotic and had no major mood disturbance, but that he was feeling insecure,  
13 anxious, and depressed. Respondent presented a thorough discussion of his internal,  
14 interpersonal, and behavioral functioning.

15           d.       Respondent's Diagnostic Impression was:

16                   Axis I:               Generalized Anxiety

17                   Axis II:       Borderline Intellectual functioning

18           e.       In her summary, Respondent described S.H. as an eight-year-old Hispanic  
19 male who was functioning in the borderline range of intelligence and who displayed signs of  
20 neurological impairment but no signs of thought disorder. Respondent did not discuss affective  
21 functioning in the summary, however, her diagnosis was Generalized Anxiety.

22 Respondent's recommendations covered multiple areas of functioning, including, academic-  
23 remediation, though Respondent did not assess his current academic functioning.

24           f.       The following acts of Respondent represent departures from the standard  
25 of care:

26                   1. Respondent's diagnosis of borderline intellectual functioning was not  
27 supported by assessment of adaptive functioning;  
28

2. Respondent diagnosed learning disabilities are diagnosed on the bases of the Bender without any testing of academic achievement; and

3. Respondent's diagnosis of Generalized Anxiety disorder was made without data to support the presence of clinically significant distress or functional impairment.

**S. Patient C.L.**

a. On or about March 9, 2000, sixteen-year-old C.L. was referred to Respondent for evaluation by her social worker in order to ascertain C.L.'s current level of functional intelligence, basic personality dynamics, and general performance level to aid in treatment and placement planning.

b. Respondent administered the WISC-III, the Rorschach, the Bender Visual-Motor Gestalt Test, the Sentence Completion Test, and the Draw a Person Test, in addition to a psychological interview. No tests of academic functioning were administered.

c. Respondent reported that C.H.'s WISC-III scores were in the mentally deficient to borderline range, Respondent noted that this could underestimate her intellect due to cultural factors. Respondent reported all subtest scores and hypotheses associated with each, but did not specify which were more likely to be true for C.H. Respondent noted that the Bender protocol "attests to her having learning disabilities and possible organic conditions." No academic testing was done to confirm the presence of learning disabilities. Respondent also presented a variety of possible hypotheses regarding C.H.'s emotional and behavioral functioning, but did not integrate them with the results of other tests of social and emotional functioning. In the Social -Emotional Aspects section, Respondent reported that there was no evidence of a psychotic thought disorder, major mood disorder, or suicidal intent, but that C.H. was insecure, anxious, and depressed and felt vulnerable and emotionally fragile.

d. Respondent's Diagnostic Impression was:

Axis I: Learning disabilities

Axis II No diagnosis

1 e. Respondent summarized that C.H. most likely had low average  
2 intelligence and showed signs of neurological impairment, but no thought disorder. Respondent  
3 offered a range of recommendations, but none were unique to C.H..

4 f. The following acts of Respondent represent departures from the standard  
5 of care:

6 1. Respondent diagnosed learning disabilities without academic  
7 achievement testing; and

8 2. Respondent failed to diagnose depression despite statements attesting  
9 to affective distress and depressed mood.

10 **T. Patient E.B.**

11 a. On or about March 16, 2000, seventeen-year-old E.B. was referred to  
12 Respondent for evaluation by her social worker to "provide in depth information regarding E.B.'s  
13 emotional, mental and intellectual functioning" and also to ascertain whether or not E.B. had a  
14 severe mental disorder.

15 b. Respondent administered included the WAIS-R, the WRAT-3, the  
16 Rorschach, the Bender Visual-Motor, Gestalt Test, the Sentence Completion Test, the Draw a  
17 Person Test, and conducted a psychological interview, to evaluate E.B..

18 c. Respondent reported WAIS-R I.Q. scores and scores for all WAIS-R  
19 subtests. Respondent discussed inconsistencies in both the verbal and performance scales, though no  
20 performance test was over 1.6 scaled points from the Performance mean score. Respondent  
21 presented scores and grade levels for the WRAT-3 tests, but did not relate them to her WAIS-R  
22 scores. Respondent reported that the Bender protocol suggested adequate perceptual motor  
23 functioning, but noted that E.B.'s performance suggested emotional disturbance. Respondent did not  
24 integrate these results with other tests of emotional functioning. In the Social-Emotional Aspects  
25 section, Respondent found no thought disorder, but paranoid tendencies. Respondent did not refer to  
26 test results.

1                   d.     Respondent's Diagnostic Impression was:

2                             Axis I:         Paranoid Personality Disorder,

3                             Axis II:        No diagnosis.

4                   e.     Respondent's summary reported that E.B. was an adolescent who probably  
5 had low average intelligence and uneven academic achievement. Respondent described her as  
6 experiencing emotional disturbance and being paranoid and withdrawn. Respondent offered a  
7 variety of recommendations, but many did not appear to be specific to this patient (e.g. the name in  
8 the first recommendation is Jacqueline, not E.B.).

9                   f.     The following acts of Respondent constitute departures from the standard of  
10 care:

11                             1. Respondent diagnosed paranoid personality on Axis I (it is an Axis II  
12 disorder) without confirming test data, history, or behavioral observations;

13                             2. Respondent did not integrate test results (e.g. IQ with achievement,  
14 cognitive with emotional functioning, test data with history); and

15                             3. Respondent failed to make patient specific recommendations; in one  
16 case the name is incorrect.

17   **U. Patient E.M.**

18                   a.     On or about June 12, 2000, twelve-year-old E.M. was referred for assessment  
19 by her social worker to ascertain E.M.'s current level of functioning and to determine whether or not  
20 she had a mental problem.

21                   b.     Respondent administered the WISC-III, the WRAT-3, the Rorschach, the  
22 Bender Visual-Motor Gestalt Test, the Sentence Completion Test, and the Draw-a-Person Test, as  
23 well as a psychological interview to evaluate E.M..

24                   c.     Respondent found that E.M. was a child with average intelligence and  
25 provided subtest scores. Respondent stated that E.M.'s non-verbal reasoning abilities were best  
26 described by her POI score, since her poor score on Coding impacted her Performance Score.  
27 Respondent gave the POI score as a percent, rather than a standard score, and the score received  
28 does not fall into the confidence interval Respondent reported. Respondent found that E.M.'s

1 performance on the WRAT-M did not suggest learning disabilities. Respondent reported essentially  
2 normal performance on the Bender Visual-Motor Gestalt.

3 d. Respondent's Diagnostic Impression was:

4 Axis I: Generalized Anxiety Disorder,

5 Axis II: No Diagnosis

6 Axis III: Hypopituitarism

7 e. Respondent summarized that E.M. had average intelligence with no evidence  
8 of neurological impairment, thought disorder, or learning disabilities. E.M. was said to be anxious  
9 and in need of a protective maternal figure.

10 f. The following acts of Respondent constitute departures from the standard  
11 of care:

- 12 1. Respondent miscalculated WISC-III scores and confidence levels; and
- 13 2. Respondent failed to consider the possible implications of
- 14 Hypopituitarism, though Respondent made a general statement that E.M.'s behavior may be
- 15 affected by this condition.

## 16 SECOND CAUSE FOR DISCIPLINE

### 17 (Unprofessional Conduct)

18 8. Respondent is subject to disciplinary action under section 2960 of the  
19 Business and Professions Code in that her treatment of patients M.P., Ja. H., Je. H., Y.T., S.M.,  
20 E.M., E.B., J.S., A.H., B.H., A.A., C.M., L.R., J.C., O.H., S.H., A.D., R.R., H.J., S.H., and C.L.,  
21 constitute repeated acts of negligence. The circumstances are as follows:

22 A. Complainant refers to, and by this reference, incorporates the facts  
23 and allegations set forth in paragraph 7, subparagraphs A through U inclusive, above, as though  
24 set forth fully.

## 25 THIRD CAUSE FOR DISCIPLINE

### 26 (Incompetence)

27 9. Respondent is subject to disciplinary action under section 2960, subdivision  
28 (p) in that her treatment of patients M.P., Ja. H., Je. H., Y.T., S.M., E.M., E.B., J.S., A.H., B.H.,

1 A.A., C.M., L.R., J.C., O.H., S.H., A.D., R.R., H.J., S.H., and C.L., constitutes incompetence.

2 The facts and circumstances are as follows:

3 A. Complainant refers to, and by this reference, incorporates the facts and  
4 allegations set forth in paragraph 7, subparagraphs A through U inclusive, above, as though set  
5 forth fully.

6 **PRAYER**

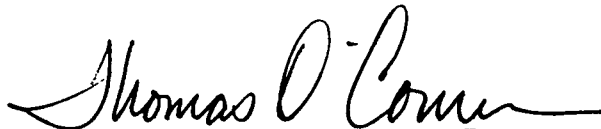
7 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein  
8 alleged, and that following the hearing, the Board of Psychology issue a decision:

9 1. Revoking or suspending Psychologist License Number PSY 10985, issued  
10 to Audrey Lenore Newman, Ph.D.;

11 2. Ordering Audrey Lenore Newman, Ph.D. to pay the Board of Psychology  
12 the reasonable costs of the investigation and enforcement of this case, and, if placed on  
13 probation, the costs of probation monitoring;

14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: November 30, 2001.

16  
17 

18 THOMAS S. O'CONNOR  
19 Executive Officer  
20 Board of Psychology  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant  
24  
25  
26  
27  
28

DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation Filed  
Against:

Audrey Lenore Newman, Ph.D.

No. : W225

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Ste. 22 Sacramento, California 95825. I served a true copy of the attached:

DECISION AND ORDER

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

Audrey Lenore Newman, Ph.D.  
11449 Providencia Street  
Cypress, CA 90630


70011940 0001 2974 8191

Pamela Thatcher, Esq.  
Law Offices of Pamela Thatcher  
98 East Grand Boulevard  
Corona, CA 92879

Richard D. Marino  
Deputy Attorney General  
300 S. Spring St., Ste. 1702  
Los Angeles, CA 90013

Each said envelope was then on, September 21, 2001, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, September 21, 2001, at Sacramento, California.  
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

  
DECLARANT  
Mary Laackmann  
Enforcement Analyst